

**FILED**  
UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

AUG 16 2024

MITCHELL R. ELFERS  
CLERK

Doc # M.D.C. #  
Matthew Paul Lowe 90280 / 100258439

Full Name/Prisoner Number

6900 W Millen DR

Hobbs, NM 88244

Complete Mailing Address

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

Civil Action No. 1:23-cv-00160-MIS-KBM  
(To be supplied by the Court)

Matthew Paul Lowe Doc # 90280  
MDC # 100258439, Plaintiff(s),

Full name(s) and prisoner number(s)  
(Do not use *et al.*)

v.

Bernalillo County Board of Commissioners,  
City of Albuquerque, Defendant(s).  
(Do not use *et al.*)

**PRISONER'S CIVIL RIGHTS COMPLAINT**

**A. PARTIES AND JURISDICTION**

1. Matthew Paul Lowe is a citizen of New Mexico who  
(Plaintiff) (State)

presently resides at Lea County Correctional Facility  
(mailing address or place of confinement)

2. Defendant Bernalillo County Board of Commissioners is a citizen of New Mexico  
(name of first defendant) (State)

whose address is 550 San Antonio DR Albuquerque, NM 87109

and who is employed as \_\_\_\_\_ At the time the claim(s)  
(title and place of employment)

alleged in this complaint arose, was this defendant acting under color of state law?  
☒ Yes ☐ No. If your answer is "Yes," briefly explain:

These defendants are hired by the State of New Mexico to  
oversee and maintain M.D.C.

3. Defendant City of Albuquerque is a citizen of New Mexico  
(name of second defendant) (State)

whose address is 602 2<sup>nd</sup> St Albuquerque, NM 87102

and who is employed as . At the time the claim(s)  
(title and place of employment)

alleged in this complaint arose, was this defendant acting under color of state law?

☒ Yes ☐ No. If your answer is "Yes," briefly explain:

The defendant is responsible for operating and maintaining  
M.D.C. under state law.

(If more space is needed to furnish the above information for additional defendants, continue on a blank sheet which you should label "A. PARTIES." Be sure to include each defendant's complete address and title.)

(CHECK ONE OR BOTH:)

☒ Jurisdiction is asserted pursuant to 42 U.S.C. § 1983 (for state defendants) or *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971) and 28 U.S.C. § 1331 (for federal defendants).

☒ Jurisdiction also is invoked pursuant to 28 U.S.C. § 1343(a)(3). (If you wish to assert jurisdiction under different or additional statutes, you may list them below.)

D.D.V-00024 KBM/KBJ

#### B. NATURE OF THE CASE

**BRIEFLY** state the background of your case. ~~The Background~~

The Defendants violated Plaintiff's 5<sup>th</sup>, 8<sup>th</sup>, and 14<sup>th</sup> amendments. Hindering legal access inadequate medical and mental health treatment excessively long confinement in a small cell loss of liberty lack of basic human needs violation of procedural due process unsanitary housing, retaliatory treatment.

#### C. CAUSE OF ACTION

I allege that the following of my constitutional rights, privileges, or immunities have been violated and that the following facts form the basis of my allegations: (If more space is needed to explain any allegation or to list additional supporting facts, continue on a blank sheet which you should label "D. CAUSE OF ACTION.")

**Claim I:** \_\_\_\_\_

Supporting Facts: (Include all facts you consider important, including names of persons involved, places, and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

Claim II: \_\_\_\_\_

Supporting Facts:

Defendant 1 Bernalillo County Board of Commissioners  
and Defendant 2 City of Albuquerque was ordered to  
fix three issues at MDC due to short staffing  
and had a blatant disregard for my rights  
guaranteed by the Constitution and State law.  
I Exhausted all of my remedies and now seek  
relief from this higher court. I have severe  
anxiety and depression, suicidal thoughts, Dissociative  
and change in behavior, PTSD, Hep C, had food poisoning  
I will go into more detail below.

Claim III: \_\_\_\_\_

Supporting Facts: \_\_\_\_\_

**D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF**

1. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to the conditions of your imprisonment? ☐ Yes ☐ No. If your answer is "Yes," describe each lawsuit. (If there is more than one lawsuit, describe the additional lawsuits using this same format on a blank sheet which you should label "E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF.")

a. Parties to previous lawsuit:

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

b. Name and location of court and docket number \_\_\_\_\_

c. Disposition of lawsuit. (For example, was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

d. Issues raised: \_\_\_\_\_

e. Approximate date of filing lawsuit: \_\_\_\_\_

f. Approximate date of disposition: \_\_\_\_\_

2. I previously have sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part D. ☒ Yes ☐ No.

If your answer is "Yes," briefly describe how relief was sought and the results.

I Spoke to and filed requests and grievances for everything and was basically ignored

3. I have exhausted available administrative remedies. ☒ Yes ☐ No. If your answer is "Yes," briefly explain the steps taken. Attach proof of exhaustion. If your answer is "No," briefly explain why administrative remedies were not exhausted. I don't have proof I have written

MPC 3 times requesting my grievance record but if you look at it you will see all of my grievances were not answered.

**E. PREVIOUSLY DISMISSED ACTIONS OR APPEALS**

1. If you are proceeding under 28 U.S.C. § 1915, please list each civil action or appeal you have brought in a court of the United States while you were incarcerated or detained in any facility that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Please describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on a blank sheet which you should label "F. PREVIOUSLY DISMISSED ACTIONS OR APPEALS."

a. Parties to previous lawsuit:

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

b. Name and location of court and docket number \_\_\_\_\_

c. Grounds for dismissal: ( ) frivolous ( ) malicious ( ) failure to state a claim upon which relief may be granted.

d. Approximate date of filing lawsuit: \_\_\_\_\_

e. Approximate date of disposition: \_\_\_\_\_

2. Are you in imminent danger of serious physical injury? \_\_\_\_ Yes \_\_\_\_ No. If your answer is "Yes," please describe the facts in detail below without citing legal authority or argument.

**G. REQUEST FOR RELIEF**

I request the following relief:

"See attached"

Prisoner's Original Signature

Original signature of attorney (if any)

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Attorney's full address and telephone

**DECLARATION UNDER PENALTY OF PERJURY**

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at Lea County Correctional Facility on 8-12-24  
(location) (date)

Matt Arell  
Prisoner's Original Signature

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C. What date and approximate time did the events giving rise to your claim(s) occur?  
 Aug 25<sup>th</sup> ~~2021~~ and continuing as of date  
 2021 March 3, 2023  
 • See Attached Exhibits

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)  
 D.D.V-00024 KBM/KBJ - Due to this statute with the lockdown due to the shortage of staff is the reason for the excessive lockdowns at (BEMDC). By this and the excessive lockdowns consecutively over 72 hours (116 hours) with out showers, use of telephone, use of Dayroom Kiosk, day room access not getting my full general population out of cell time. which is 8 to 2 + 4 to 8 In getting 8 to 10 this is wrong & tortious and unusual punishment. failed to treat my opiate use disorder  
 V. Injuries would not supply me with eye glasses. Refused to give psychiatric treatment. Did not treat my P.A.D. Did not treat  
 If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.  
 Severe PTSD (Due to the excessive lockdown in 6x8x12) Violation of HEPIC.  
 - Severe anxiety 8) Hepatitis C Cruel & unusual punishment. See attached  
 - Severe Depression violation of due process  
 - Change in health food poisonings  
 - Suicidal thoughts  
 - Disassociative Behavior & change in Behavior  
 7 - Violation of my amendment rights clause

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

1) this Party seeks Relief of 5 million dollars due to the bases on the claims and the violation of my constitutional rights. and for attorney fees due to me being a pro se plaintiff and indigent. 2) this Party seeks 2.5 of the 5 million to go to the City of Albuquerque the Board of commissioners of Bernalillo County Metropolitan Detention Center, the representative for metropolitan Detention center for the Adding / hiring of staff at the Jail to resolve this situation.

3.) Due to the injuries and the relief is where I have my Claims

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N/A

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

See attached copy

## III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☒ Pretrial detainee  
☐ Civilly committed detainee  
☐ Immigration detainee  
☐ Convicted and sentenced state prisoner  
☐ Convicted and sentenced federal prisoner  
☐ Other (explain) \_\_\_\_\_

## IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

Units E-6 E-8 E-7 RHU 5 100 Deputy Dean Miera Dr SW  
 Albuquerque, NM 87151

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Starting Aug 24, 2021

Continuing As of 3-1-2023



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## I. The Parties to This Complaint

## A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Matthew Paul Jave

All other names by which  
you have been known:

Math Jave

ID Number

MDC # 100258435 NMCD # 90280

Current Institution

RDC Central New Mexico Correctional Facility

Address

P.O. Drawer 1323 ~~Los Lunas, NM~~

Los Lunas

NM

87031

City

State

Zip Code

I got moved see attached for new address

## B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

## Defendant No. 1

Name

Bernalillo County Board of Commissioners

Job or Title (*if known*)

Shield Number

Employer

Address

550 San Antonio DR

Albuquerque

NM

87109

City

State

Zip Code

☐ Individual capacity ☒ Official capacity

## Defendant No. 2

Name

City of Albuquerque

Job or Title (*if known*)

Shield Number

Employer

Address

602 2ND ST

Albuquerque

NM

87102

City

State

Zip Code

☐ Individual capacity ☒ Official capacity

11 ~~Matthew Jave~~ <sup>Lee County Correctional Facility</sup> <sup>new</sup>  
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Matthew Jave #90280 MJC #100258739  
Lee County Correctional Facility  
6900 West Millen Dr.  
Hobbs, NM 88244

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

I Did file grievances

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

I Did file

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

CAPT Trujillo came into the POD a few times and said he couldn't do anything because they were short staffed. He recognized the problem and I exhausted my remedies with no result. That is why I turn to this higher court.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

Defendant(s)

N/A

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☐ No

N/A

If no, give the approximate date of disposition.

N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

NO

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## VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

- ☒ Yes  
☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Bernalillo County  
 Metropolitan Detention Center

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

- ☒ Yes  
☐ No  
☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

- ☒ Yes  
☐ No  
☐ Do not know

If yes, which claim(s)?

The Claims of Violating My 1st, 8th, 14th Amendment Rights  
 Being Locked Down over 72 hours  
 This is where I Base My Claim. Being Locked Down over 72 hours  
 Several Times and Lack of Medical Care  
 Not Getting My Time out of Cell.  
 Expired food, unfit living conditions  
 Not treating me for O.U.D. or P.A.D.

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☒ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

I filed grievances on the Kiosk and in my Cell using the tablet you can find them on file in the grievance process file.

2. What did you claim in your grievance? Being locked down over 72 hours several times, lack of medical care, not treating my opiate use disorder, needing medical psych treatment, serving expired food.

3. What was the result, if any? There was no result in the dispos. in the grievances. They would come back as "unfounded", "offounded", or "substantiated" or undecided I used all my Exhaustive Remedies so this is why I seek this higher Court.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I appealed my grievances as far as it would go but there was never any result. The situations are still unresolved, and I would like a resolution through this higher Court.

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## IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

## A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: \_\_\_\_\_

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Matthew Lowe  
 Matthew Lowe  
 MDC100258439 Doc 90280  
~~P.O. Drawer 1328~~ 6900 W. Millin Dr.  
~~Las Vegas~~ Hobbs NM 88244  
 City State Zip Code  
 See attached copy for new address.

## B. For Attorneys

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

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☐ Yes☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

Defendant(s)

N/A

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes☐ No

N/A

If no, give the approximate date of disposition

N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A



## D. Cause of Action Claim I

1. Plaintiff Matthew Paul Lowe was confined at the County jail located in the city of Albuquerque, NM from August 25<sup>th</sup> 2021 to February 1<sup>st</sup> of 2023. Plaintiff is currently confined at Lea County Correctional Facility 6900 W. Millen Dr. Hobbs, NM 88244.

2. Plaintiff is, and was at all times mentioned herein, an adult citizen of The United States and a resident of the State of New Mexico.

3. Defendant Bernalillo County board of Commissioners was at all relevant times herein the Commissioners of adult services for the County of Bernalillo and the City of Albuquerque with responsibility for operating and maintaining detention, Penal, and corrective institutions within the County of Bernalillo and day to day operations of the facility.

4. Defendant City of Albuquerque was at all relevant times Commissioner of adult services for the City of Albuquerque with responsibility for operating and maintaining detention, Penal, and corrective institutions within the City of Albuquerque and day to day operations of MDC. and was at all times a Municipal Corporation of the state of New Mexico.

## D. Cause of Action Claim I

5. This action arises under and is brought pursuant to 42 U.S.C. Section 1983 to remedy the deprivation, under Color of State law of rights guaranteed by the Eighth and Fourteenth Amendments to the United States Constitution. This Court has jurisdiction over this action pursuant to 28 U.S.C. Sections 1331 and 1343.

6. Plaintiff's claims for relief are authorized by rule 65 of the Federal Rules of Civil Procedure.

7. This Cause of action arose in the State of New Mexico therefore Venue is proper under 28 U.S.C. Section 1391 (b).

8. Plaintiff has filed no other lawsuits dealing with the same facts involved in this action.

8. Plaintiff Matthew Paul Lowe has Exhausted all of his administrative remedies by filing grievances and medical requests that were ignored and never given any attention by Staff, Supervisors, Board of Commissioners or City of Albuquerque. He "escalated all of the grievances he could to as far up the Supervisor Chain he could for all of the claims he is making in this action.

## D. Cause of Action Claim I

9. Plaintiff spoke to all of Unit Supervisors Facility Supervisors and was told they were fixing the staffing issues and lack of Medical Care and that a lot of my complaints were "not grievable" but no remedies were ever given that is why He is Seeking Relief from this higher Court.

10. At all relevant times defendants were "persons" for purposes of 42 U.S.C. Section 1983 and acted under color of law to deprive Plaintiff of his Constitutional rights set forth more fully below.

11. On August 25<sup>th</sup> 2021 Plaintiff was booked into M.D.C. and was put in "F" unit detox and quarantine pod where the plaintiff was given a "boat" to sleep on in the middle of the "day room" because he was detoxing from opiates.

12. During Plaintiff's first week August 25<sup>th</sup> - 31<sup>st</sup> he was only given 30 minutes which was two 15 minute intervals He was allowed off of his "boat" for a shower even though he deficated on himself because there was only one open cell for a restroom for around 20 inmates that were also on "boats" in the dayroom.

#### D. Cause of action Claim I

13. Plaintiff did not have access to file a grievance for his first week of Aug 25<sup>th</sup> - 31<sup>st</sup>.

14. During the week of August 25<sup>th</sup> - 31<sup>st</sup> Plaintiff's towel and socks were stolen because he had no where to keep them and was unable to dry off after his shower and was denied new towel or socks and was freezing and was denied an extra blanket.

15. During the week of August 25<sup>th</sup> to 31<sup>st</sup> the restroom the plaintiff was forced to use was absolutely disgusting. It was covered in urine, feces, and vomit and was being used all of the time so he had to vomit in a bag and defecated in his pants.

16. On or about September 1<sup>st</sup> 2021 the Plaintiff was moved into a cell in the same Pod and was only given 1 shower and zero time out of the cell for that week.

17. On or about September 9<sup>th</sup> the plaintiff was moved to E-unit pod #6 where he was in Cell #21, #22, and #16 and was only given 15-30 minutes two times a week for the entire time he was in E-6.

## D. Cause of Action Claim I

18. From September 9<sup>th</sup> through the middle part of November the plaintiff was trying to be seen by medical for blood work and to address health concerns and wasn't seen until he had a McLendon attorney, Mrs. Loewe come see him and talk to the supervisors at the facility. At which point she informed the plaintiff about the importance of the grievance process informed him he was not receiving adequate medical treatment or time out of small cell and that his opiate use disorder should be treated. She left and the provider came about an hour later and was very rude and made a comment about the plaintiff getting a lawyer to help him and he diagnosed the plaintiff with Peripheral Arterial Disease or P.A.D. and was finally placed on high blood pressure medication.

19. A few days after Mrs Loewe saw the plaintiff he was finally seen by mental health. He told the nurse about his P.T.S.D, Depression, anxiety and substance abuse. She denied him treatment stating he was just trying to get "psych" meds for what amounts to street use.

## Cause of Action Claim I

20. Around the first week of December the plaintiff filed a grievance on Officer Shane Flynn for not giving us our time out of cell and access to shower and telephones. Which shortly after the Plaintiff was retaliated against for the grievance and moved to restricted housing unit # 5 or RHU 5.

21. On or about December ~~18~~<sup>18</sup>th the Plaintiff was in RHU 5 and was locked in his cell for over 100 hours with no time out, or access to a shower or cleaning supplies, or telephone.

22. On or about December 15<sup>th</sup> the Plaintiff was moved to E-8 where he was still being locked down for excessive amounts of time in a small cell.

23. There are several dates that the Plaintiff was locked down for 84 plus hours sometimes up to 120 hours. The weekend of April 1<sup>st</sup> 2022 in May 2022 in June of 2022 in August of 2022 in September 2022 and November of 2022. These were just the times over 80 hours we were constantly locked down for 72 hours at a time with out a shower access to exercise, telephones, cleaning supplies interaction with other inmates



## Cause of Action Claim I

access to Meals with other inmates  
access to religious services for the  
entire year February 2022 - February 2023.

24. In November of 2022 ~~my~~ Plaintiff's toilet broke. The Plaintiff informed LT. Speedy the acting E unit supervisor and he informed the plaintiff he was short staffed but he would try to get it fixed. 25. Four days later with no time out the toilet was fixed, but during that time the Plaintiff had to urinate in his sink and defecate in a bag because his toilet was full of urine and feces. He had NO way of throwing out his feces for four days and no access to cleaning supplies. He was made to breathe in the terrible odor and eat his food in the cell for four days.

26. For the entire year from February 2022 until February 2023 the plaintiff experienced inadequate and unsanitary housing from issues due to under staffing. Trash would pile up in the cells with rotting food. No access to showers and cleaning supplies for 3-4 days at a time.

## Cause of Action Claim I

27. All of these issues brought forth are blatant violations of the 8<sup>th</sup> and 14<sup>th</sup> amendments causing loss of liberty and lack of basic human needs. Which at one point a judge even released the plaintiff due to inadequate medical care. He remained in custody because of a warrant in Arizona but the judge did release him from New Mexico.

28. The plaintiff has Opiate use disorder (Severe) which is a treatable disease requiring treatment just like HepC and HIV. The plaintiff met all of the requirements to receive treatment but was still denied eventually causing him to relapse and get Hepatitis C.

29. These violations of the plaintiffs guaranteed Constitutional rights. Violating 8<sup>th</sup> and 14<sup>th</sup> amendments causing loss of liberty and privileges lack of basic human needs. Excessively long confinement times in a small cell. Inadequate medical care, inadequate psychiatric care, unsanitary housing conditions.

30. In general defendants showed deliberate indifference to the needs of the inmates



Cause of Action Claim I  
and particularly neglected those of the  
plaintiffs.

31. There was constant excessive lockdowns  
causing plaintiffs loss of exercise loss  
of interaction with other inmates loss of  
meals with other inmates inadequate access  
to telephone No access to cleaning supplies or  
regular showers, and religious practices.

32. In general the defendants showed  
deliberate indifference to the medical needs  
of the plaintiff.

33. Medical care at the jail was inadequate  
and unprofessional. Deficiencies were the  
norm were unable to receive care upon re-  
quest and often had to submit a grievance  
to be seen.

34. Plaintiff was never given eye treatment  
for the entire 18 months at the facility.

35. Inadequate opportunity to practice  
religion

36. Failure to administer adequate medical  
remedy.

37. Retaliatory treatment for filing  
grievances.

## Cause of Action Claim I

38 See McCleendon v. City of Albuquerque  
D.D.R.-00024-KBM/KBS

39. See Perkins v. Kan. Dept. of Corr.,  
165 F.3d 803 (10th Cir. 1999)

39. See Helling v. McKinney, 509 U.S. 25,  
32, 1135. Ct. 2475, 2480, 125 L. Ed. 2d  
22, 31 (1993) (citing Deshaney v. Winnebago  
County Dept. of Social Services, 489 U.S.  
294, 304, 111 S. Ct. 998, 103 L. Ed 2419 (1989))

40. See Wilson v. Seiter, 501 U.S. 294,  
304, 111 S. Ct. 2321, 2327 L. Ed. 2d  
271, 283 (1991).

41. As a Pre trial detainee I have the  
right to privileges adequate time for recreation  
exercise, showers, cleaning, religion, interaction  
with inmates, telephones which the defendants  
failed to give the plaintiff.

42. When I got to NM Doc I was diagnosed  
with PTSD, Depression, Anxiety, insomnia and  
given eye glasses that MDC refused to  
give me.

43. These Claims are all brought forth due  
to the shortage of staffing at MDC and  
the blatant disregard the defendants had  
for my Rights and privileges.

Respectfully Submitted  
Matthew Jue

## D. Cause of Action Claim II

1. Plaintiff Matthew Paul Lowe was confined at MDC for the entirety of this Complaint.

2. I want to start by apologizing for lack of dates and names. When I was transported to Doc I had to throw away everything I brought with me. Even legal & Religious Items.

3. I was arrested around 9pm August 24<sup>th</sup> 2021 and booked at MDC around Midnight August 25<sup>th</sup> 2021. I was "kicking" and put into F unit detox pod where I had to sleep on a boat in the middle of the dayroom with 20 other inmates that were kicking as well. We had to share one filthy toilet. I was freezing and only got 2 showers that first week even though I was vomiting so hard I crapped my pants in the middle of the dayroom since there was always a long line for the one toilet. I was moved to E6 after about 2 weeks.

3. I had to get help from a McCleendon Attorney Katherine Loewe to get seen by Medical and Mental health and she

## D Cause of Action Claim II

informed me of the staffing issues that MDC was already in trouble for and that I should be getting treatment for my Opiate Use Disorder as well as getting adequate medical treatment and time out of small cell. She went and talked to someone and they saw me that day and diagnosed me with Peripheral Arterial Disease or P.A.D. and after 3 months gave me blood pressure meds. A couple days later Mental Health came and basically told me I was trying to get meds I didn't need and denied me treatment. I was locked down for basically the entire 18 months I was there, but the first time I filed a grievance against Shane Flynn around December 1<sup>st</sup> of 2021 I got retaliated against and moved to Seg for a week where I beat the false write up I was given, but during that time I was locked down for over 100 hours straight in RHU #5 because there was no C.O. Then I was moved to E-8 then to D8 where I was still trying to get proper medical treatment and information about my P.A.D.

## Cause of Action Claim II

which I never got. Then in February 2022 I was moved to E-8 where Officer Claville and Beltran were the C.O.s I remained there until Feb. 2023, During that year I filed many grievances that were never answered and the ones that were never got any resolution. I was locked down constantly for 72 hours with no time out at all, and there was about ten different times I was locked down 84-120 hours in Feb 2022 April 2022 May 2022 June of 2022 August 2022 September 2022 November 2022. I filed grievances almost every time. One time I was kept in my cell with a broken toilet for 4 days in Nov 2022. All of the time with out exercise and showers and being isolated took a toll on my mental health which I am now getting treatment for, but I have had panic attacks fear of groups of people thoughts of harming myself which I never had before that 18 months. The judge even released me because I wasn't getting proper medical treatment I remained in custody because I had a warrant but even the judge saw how bad it was. I proved to the nurses that I qualified for M.A.T.

Pg 4

## Cause of Action Claim II

program got all of the paperwork they asked me for MRS Loewe even went to a City Council Meeting on my behalf and they still denied me or actually ignored me, but OUD is a serious obvious condition requiring treatment like Hep C or HIV. I contracted Hep C while I was there because they refused to treat me for OUD or any of my Medical Needs really.

There was a lot of stuff I didn't grieve because the officers said it wasn't grievable or I was just ignored so I gave up the C.O.s would be rude and make fun of me for filing grievances and complaining. Captain Trujillo came and addressed the staffing issue a few times said he knew what they were doing was illegal and a violation of our rights but he couldn't do anything about it.

I am seeking help from this higher Court to make me whole again and receive the compensation I deserve for what I went through at M.D.C. I need therapy and am on "psych" meds and I don't know if my anxiety or panic attacks will ever stop but I never had them before.



## Cause of Action Claim II

I don't think you can place a dollar amount on physical and mental health but I hope this will be a means to an end for both parties.

I went through a lot of long periods of confinement even though I was in general population. I was hardly given medical care it was inadequate at best. I was completely denied mental health treatment. I experienced a serious loss of liberty and privileges I should have had according to the STATE LAW and U. S. Constitution and a serious disregard of basic human needs. even though the defendants knew and were ordered to fix these problems.

Respectfully Submitted  
Matthew Lowe.

## G. Request for Relief Pgl

Plaintiff seeks compensatory damages for the loss of privileges and quality of life in his jail living conditions, and loss of the limited liberty enjoyed by pre-trial detainees resulting from short staffing by Bernalillo County Board of Commissioners and The City of Albuquerque at the Bernalillo County Metropolitan Detention Center located at 100 Deputy Dean Miera Dr Albuquerque, NM 87151.

Plaintiff seeks punitive damages against Defendants Bernalillo County Board of Commissioners and The City of Albuquerque for their willful and malicious conduct in the plaintiffs excessively long lockdowns in a small cell for plaintiffs loss of ability to attend religious services, educational services, watch television, associate with other inmates attend outdoor recreation in a congregate setting with the ability to engage in sports and other congregate recreational activities attend meals with other inmates, access to telephone, adequate medical care, adequate mental health treatment for having to live in unsanitary housing conditions.



G. Request for Relief Court. Pg 2  
violation of plaintiffs 1st 5th 8th  
and 14th amendments. Causing plaintiffs  
loss of liberty and lack of basic human  
needs.

Plaintiff requests an order  
declaring that the defendants have  
acted in violation of the United States  
Constitution.

Plaintiff requests 5 million dollars  
as compensatory damages.

Matthew Lowe

I declare under penalty of perjury  
that the foregoing is true and correct.

Matthew Lowe

8-11-24

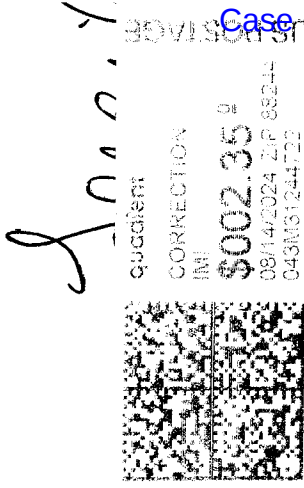
account exceeds \$10.00. The complaint may be dismissed at any point if you fail to make the required monthly payments.

10) When your complaint is completed, it should be mailed with the necessary copies and filing fees, or motion to proceed pursuant to 28 U.S.C. § 1915 and financial certificate, to the Clerk of the United States District Court whose address is:

**U.S. District Court  
333 Lomas Blvd. NW, Ste. 270  
Albuquerque, NM 87102**

11) United States District Judges, United States Magistrate Judges, law clerks, the Clerk of Court, and deputy clerks are officers of the court **and are prohibited from giving legal advice.** Questions of this nature should be directed to an attorney.

Matthew Lowe #90280  
6900 W. Miller Dr  
Hobbs, NM 88244



RECEIVED  
UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO  
AUG 16 2024  
MITCHELL R. ELFERS  
CLERK

U.S. District Court  
Office of the Clerk  
333 Lomas Blvd NW STE. 27  
Albuquerque, NM 87102